



## **ATTACHMENT #4**

**STATUS OF ELECTRIC COMPETITION  
IN MICHIGAN**

**February 1, 2004**

**MICHIGAN PUBLIC SERVICE COMMISSION**

**Department of Labor & Economic Growth**



Jennifer M. Granholm  
GOVERNOR

STATE OF MICHIGAN  
**PUBLIC SERVICE COMMISSION**  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
DAVID C. HOLLISTER  
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COMMISSIONER

Laura Chappelle  
COMMISSIONER

February 1, 2004

Honorable Jennifer Granholm  
Governor of Michigan

Honorable Members of the Senate Technology and Energy Committee  
Secretary of the Senate

Honorable Members of the House of Representatives Energy and Technology Committee  
Clerk of the House of Representatives

The enclosed annual report, *Status of Electric Competition in Michigan*, is submitted on behalf of the Michigan Public Service Commission in accordance with Section 10u of 2000 PA 141, MCL 460.10u. This report will be available on the Commission Web site at [Michigan.gov/mpsc](http://Michigan.gov/mpsc).

As you know, electric restructuring in Michigan was created in response to Michigan's relatively high electric rates that, in large part, stifled economic development in the state. The explicit goals of the Customer Choice and Electric Reliability Act include fostering competition, improving the opportunities for economic development, and promoting financially healthy and competitive utilities in Michigan.

During 2003, competition in Michigan's electric markets continued steady progress, with the number of customers participating more than doubling. The Commission issued 31 orders to further establish the framework for Michigan's Retail Open Access Program (ROA), and implement the provisions of PA 141. Highlights of the report include:

- Over 13,000 customers are now participating in Michigan's ROA, growing by 70% to a total of 2728 MW.
- The Commission has licensed 26 Alternative Electric Suppliers and 19 are actively serving customers now in the Consumers Energy and Detroit Edison service territories.
- Michigan Court of Appeals affirmed the Commission's decision in Consumers Energy Company's and The Detroit Edison Company's case related to the methodology and recovery of net stranded costs, calculation of securitization credits and deferral of de-skewing rates.
- Consumers Energy Company and The Detroit Edison Company were granted securitization bond and tax change true-up adjustments.

- At the time of this report, Detroit Edison (DTE) stock was selling for \$39 per share, compared to \$31-32 per share when Act 141 was being considered. Consumers Energy (CMS) stock has fallen significantly since Act 141 passed, but this loss was due primarily to foreign investments and unregulated trading activities.
- The Low-Income and Energy Efficiency Fund grants awarded nearly \$20 million for low-income energy efficiency and low-income energy financial assistance. An additional \$3 million went to the Michigan Community Action Agency Association for shut-off protection to low-income customers.
- Investigation of the blackout of 2003 found the transmission line and power plant outages that occurred prior to the power surges involved facilities in Ohio, and that Michigan utilities performed appropriately.
- The Commission took a major role in influencing federal policies to develop mandatory reliability standards for the transmission of electricity.
- Midwest Independent System Transmission Operator, a multi-state Regional Transmission Organization that includes Michigan, now covers 15 states from Appalachia to the Rocky Mountains, and part of Canada.
- Consumers Energy met the market tests required before filing for an increase in electricity rates.
- The first annual *Michigan Renewables Energy Program* report was filed to the Commission.
- The Commission has no recommendations for legislation at this time.

Development of a robust competitive market with full customer protection was a high priority for the Commission during the second year of fully open retail electricity markets in Michigan, and will continue to be so in 2004. Further, market development through 2004 should provide the Commission and the Legislature with a greater understanding of the components that can enhance market competition in support of the purposes of Act 141, including supporting healthy Michigan utilities. The Commission will apprise the Governor and the Legislature of any developments that may require action.

Respectfully yours,

MICHIGAN PUBLIC SERVICE COMMISSION

Chair J. Peter Lark

Commissioner Robert B. Nelson

Commissioner Laura Chappelle

## **Executive Summary**

### Introduction

The Customer Choice and Electricity Reliability Act (2000 PA 141) requires the Commission to file a report with the Governor and the Legislature by February 1 each year. The report is to include a discussion of the following topics:

1. The status of competition for the supplying of electricity in Michigan.
2. Recommendations for legislation, if any.
3. Actions taken by the Commission to implement measures necessary to protect consumers from unfair or deceptive business practices by utilities, Alternative Electric Suppliers (AESs), and other market participants.
4. Information regarding customer education programs approved by the Commission to inform customers of all relevant information regarding the purchase of electricity and related services from AESs, Act 141, Section 10u; (MCL 460.10u).

The Michigan Legislature began the process of restructuring the State's electric industry with the enactment of 2000 PA 141, the "Customer Choice and Electricity Reliability Act," which took effect on June 5, 2000 (MCL 460.10 et seq.). An important policy goal of Act 141 is to introduce competition into the electric industry by offering Michigan customers the opportunity to choose to purchase their electric generation services from an AES. The prices charged for AES services are not regulated. Act 141 requires the Commission to submit a report by February 1 each year to the Governor and Legislature on the Status of Electric Competition in Michigan. The Staff of the Michigan Public Service Commission (Commission or MPSC) has written this report and is solely responsible for its contents.

### Conclusions

- Electric competition in Michigan continued steady progress through 2003, with the number of customers participating more than doubling during 2003, now reaching over 13,000, and the number of megawatts (MW) served by AESs growing by 70%, to a total of 2,728 MW.
- The number of licensed AESs grew only slightly during 2003. One new AES received a license, bringing the total to 26. The number of licensed AESs actively serving customers grew significantly in 2003 though. Suppliers active in the Consumers Energy service territory doubled in 2003, from 4 to 8 active, and those active in the Detroit Edison service territory grew from 12 to 18.
- The Michigan Court of Appeals affirmed the Commission's decision in Consumers Energy's and Detroit Edison's case related to the methodology and recovery of net stranded costs, calculation of securitization credits, and deferral of de-skewing rates.
- The Commission issued 31 orders in 2003 related to implementation of Act 141 and Retail Open Access (ROA). In an order dated June 2, 2003, in Case No. U-13715, Consumers Energy was granted a financing order approving the securitization of certain of its qualified assets. On December 18, 2003, the Commission, in Case No. U-13715, issued an order remanding the proceeding for additional testimony for Consumers Energy's application for a financing order approving securitization of certain qualified assets. Two additional orders in 2003 adopted securitization true-up adjustments for Michigan's two largest electric utilities, Consumers Energy (U-12505) and Detroit Edison (U-12478). The two utilities continue to collect these charges pursuant to 2000 PA 142.

- The Commission continues to monitor the earnings of selected Michigan investor-owned utilities. Financial status reports are available on the MPSC Web site under Periodic Reports & Publications. At the time of this report, Detroit Edison (DTE) stock was selling for \$39 per share, compared to \$31-32 per share when Act 141 was being considered. Consumers Energy (CMS) stock has fallen significantly since Act 141 passed, but this loss was due to foreign investments and unregulated trading activities.
- Low-Income and Energy Efficiency Fund grants were awarded to 12 organizations, totaling nearly \$20 million for low-income energy efficiency and low-income energy financial assistance. An additional \$3 million went to the Michigan Community Action Agency Association for shut-off protection to low-income customers.
- The August 14, 2003, blackout left 50 million North Americans without power, including 2.3 million customers of Detroit Edison, Consumers Energy, and the Lansing Board of Water and Light. At the onset of the outage, MPSC staff went immediately to the State Emergency Operations Center and remained there for most of the next three days to assess, analyze and report on the outage, advise the Governor, and take other actions as needed to facilitate recovery. The MPSC launched an investigation on August 18 and issued a major report on the blackout on November 5, 2003. The investigation revealed that Detroit Edison, Consumers Energy, and the Lansing Board of Water and Light performed appropriately with regard to blackout recovery. See [www.michigan.gov/blackout](http://www.michigan.gov/blackout).
- Both Governor Jennifer M. Granholm and MPSC Chair J. Peter Lark presented congressional testimonies requesting an improved system whereby mandatory and enforceable rules would apply to all users of the Nation's electrical transmission system. The MPSC has endorsed H.R. 3004 (sponsored by U.S. Representative John Dingell), the "Electric Reliability Improvement Act," that would improve the reliability of the Nation's electric transmission system.
- All transmission assets formerly owned by CMS Energy and DTE are now part of the Midwest Independent Transmission System Operator, Inc. (MISO). MISO now covers 15 states from Appalachia to the Rocky Mountains, and part of Canada. In 2003, MISO developed a plan to implement reliability tools on an accelerated schedule, and pushed back the implementation of the energy market – including day-ahead, real-time and financial transmission rights (FTRs) market trading – until December 1, 2004. See Section 2-B of this report (p. 11).
- Section 10f of the Customer Choice and Electricity Reliability Act (MCL 460.10f) establishes a market power test that Consumers Energy and Detroit Edison must meet before the Commission may increase their rates for the sale of electricity. In Case No. U-13750, the Commission determined that Consumers Energy meets the test. The Commission is currently reviewing Detroit Edison's application in Case No. U-13797. See Section 2-D of this report (p. 13).
- Act 141, Section 10r (MCL 460.10r), directed the Commission to establish a "Michigan Renewables Energy Program" (MREP). The first annual Staff report to the Commission on MREP was filed in November. See Section 4-C-3 of this report (p. 16).
- No significant new, in-state, non-utility electric generating capacity was added in 2003. Non-utility power production currently represents about 1/6 of sales in Michigan. See Section 2-C of this report (p. 12).
- The Commission has no recommendations for legislation at this time.

## 1. Status of Competition for Supplying Electricity

### 1-A. Introduction

Full open access for all customers of Michigan investor-owned utilities took effect on January 1, 2002.<sup>1</sup> Thus, 2003 was the second full year of operation under Act 141. Throughout 2003, there was continued growth in the number of customers and suppliers participating in competitive electricity markets in both Consumers Energy and Detroit Edison service territories. Together, these two companies provide service to almost 90 percent of the State's electric customers. There was still no electric choice activity in other Michigan utility service territories by the end of 2003.

### 1-B. Appeals Court Ruling

On November 18, 2003, the Michigan Court of Appeals issued its opinion affirming the Commission's Orders in Case No. U-12639 related to the methodology for calculation methods and the recovery of net stranded costs, the calculation of securitization credits, and the Commission's denial of Consumers Energy and Detroit Edison's requests for the de-skewing of rates.<sup>2</sup> The court found that the Commission's decision was consistent with Act 141 and, "[w]here the evidence was insufficient to allow the PSC to accurately determine the proper amount of implementation costs and whether those costs were prudently incurred, the PSC properly deferred that determination."

### 1-C. Alternative Electric Suppliers (AESs)

By the end of 2003, there were 26 licensed AESs in Michigan. Twelve of these were approved prior to or in 2001, 13 more received approvals in 2002, and one new license was granted in 2003.

By the end of 2003, there were eight AESs serving commercial and industrial customers in Consumers Energy territory and 18 in the Detroit Edison territory. That compares to four AESs serving customers in Consumers Energy territory and 12 in Detroit Edison territory at the end of 2002. Seven of the eight AESs now serving customers in Consumers Energy territory were also active in Detroit Edison territory in 2003.<sup>3</sup> See Table 1 (p. 4) and Table 2 (p. 10).

### 1-D. Sales Served by the Retail Open Access Programs

There are currently three active open access programs in Michigan. Consumers Energy has one program in its service territory and Detroit Edison has two.

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<sup>1</sup> The schedules for implementing customer choice are different for cooperative electric utilities and municipal electric utilities (see MCL 460.10x for cooperative utilities and MCL 460.10y for municipal utilities). On September 11, 2003, the Commission issued an order for Michigan's cooperative electric utilities in Case No. U-13698. That order provides that the cooperatives shall file unbundled rates, no later than July 1, 2004, for member-consumers with a peak load of 200 kilowatts and above. By January 1, 2005, the cooperatives shall provide choice for all commercial and industrial member-consumers with a peak load of 200 kilowatts and above. Municipal utilities are not regulated by the MPSC. Under MCL 460.10y, "The governing body of a municipally owned utility shall determine whether it will permit retail customers receiving delivery service from the municipally owned utility the opportunity of choosing an alternative electric supplier...."

<sup>2</sup> Utility rates are said to be "skewed" if one class or type of customers is paying rates that are higher, and another class or type of customers is paying rates that are lower, than the utility costs necessary to serve them.

<sup>3</sup> CMS Marketing, Services & Trading (CMS MS&T), a corporate affiliate of Consumers Energy, was serving two customers in the Consumers Energy service territory at the end of 2003. Another affiliate, CMS MST Michigan, LLC, was serving 11 customers in the Detroit Edison service territory at the end of 2003.

## Consumers Energy Electric Customer Choice

Consumers Energy's Retail Open Access (ROA) program was established by Commission orders and Act 141. Table 1 shows the numbers of customers and their electricity demand in MW served by each AES in the Consumers Energy ROA program at the end of 2001, 2002 and 2003. The ROA sales served in Consumers Energy's service territory at year-end 2003 totals 658 MW, which represents nearly 40% annual growth. The number of customers served in Consumers Energy's ROA program grew at an average annual rate of 45% in 2003, reaching 814 by the end of the year. Both of these rates are substantially less than the growth in 2002, but still are substantial.

For Consumers Energy customers, nearly 7% of commercial sales and 16% of industrial sales are presently met through ROA. By customer class, the mix is about 30% commercial and 70% industrial. There is no residential customer participation in the Consumers Energy service territory at this time.

Five new AESs began serving customers in Consumers Energy service territory in 2003, and one AES withdrew from the market.<sup>4</sup>

Consumers Energy previously had an experimental open access program, called Direct Access (DA), which is no longer available.

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Table 1 – AES Customers in Consumers Energy Service Territory, Year End

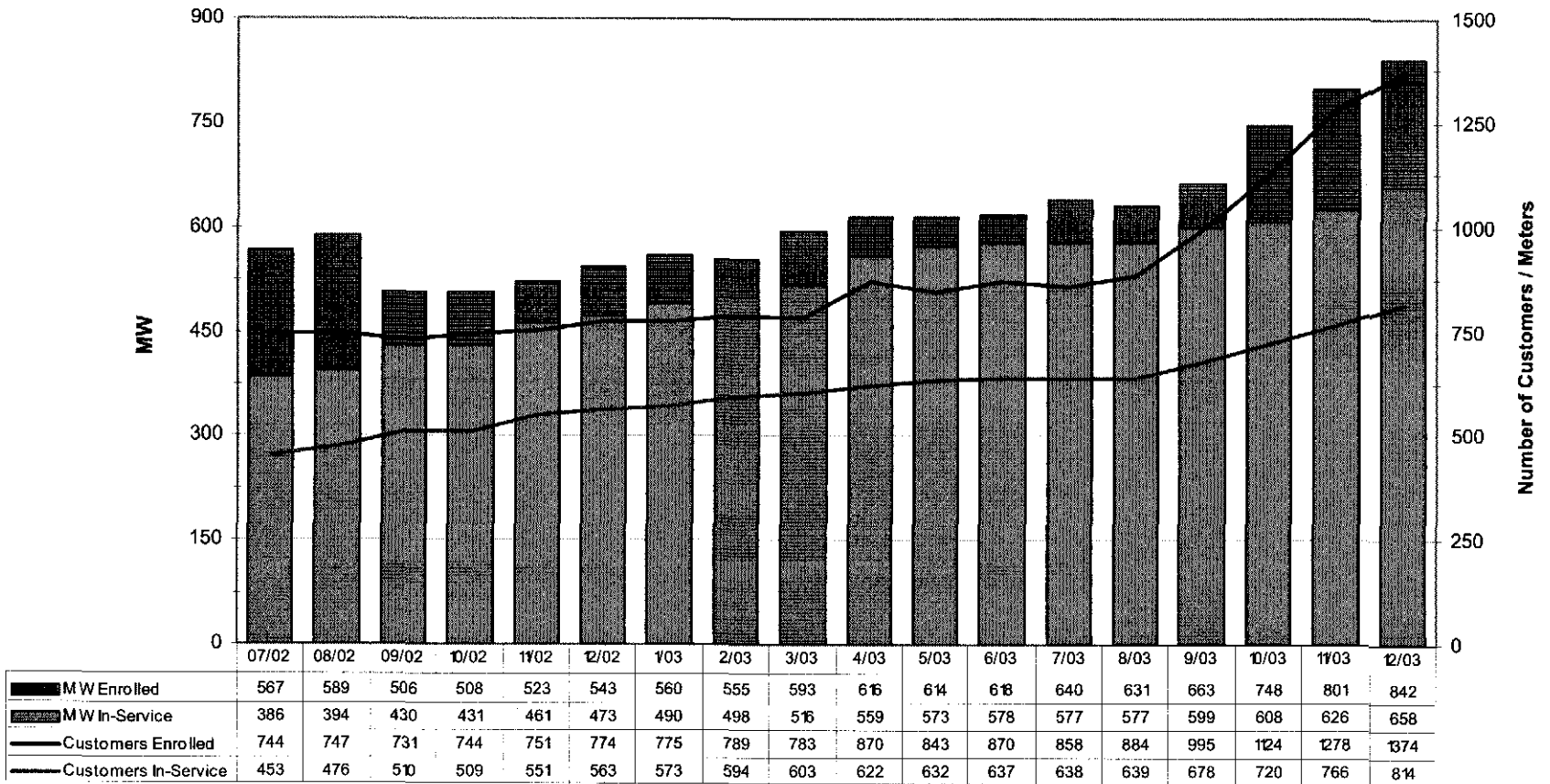
AES Name	Number of Customers			MW Served		
	2001	2002	2003	2001	2002	2003
CMS MS&T			2			2
Constellation			183			61
Mirant			4			22
Nicor/EMC		87			25	
Nordic Electric		4	18		25	35
Quest	327	467	494	217	380	411
Sempra			9			13
Strategic			89			9
Wolverine Power	2	5	15	9	43	105
Totals	329	563	814	226	473	658

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<sup>4</sup> Thus far, when AESs have exited from either the Consumers Energy or Detroit Edison markets, they have done so gradually, so that customers had ample opportunity to make decisions about finding another supplier or returning to full service from their incumbent utility.

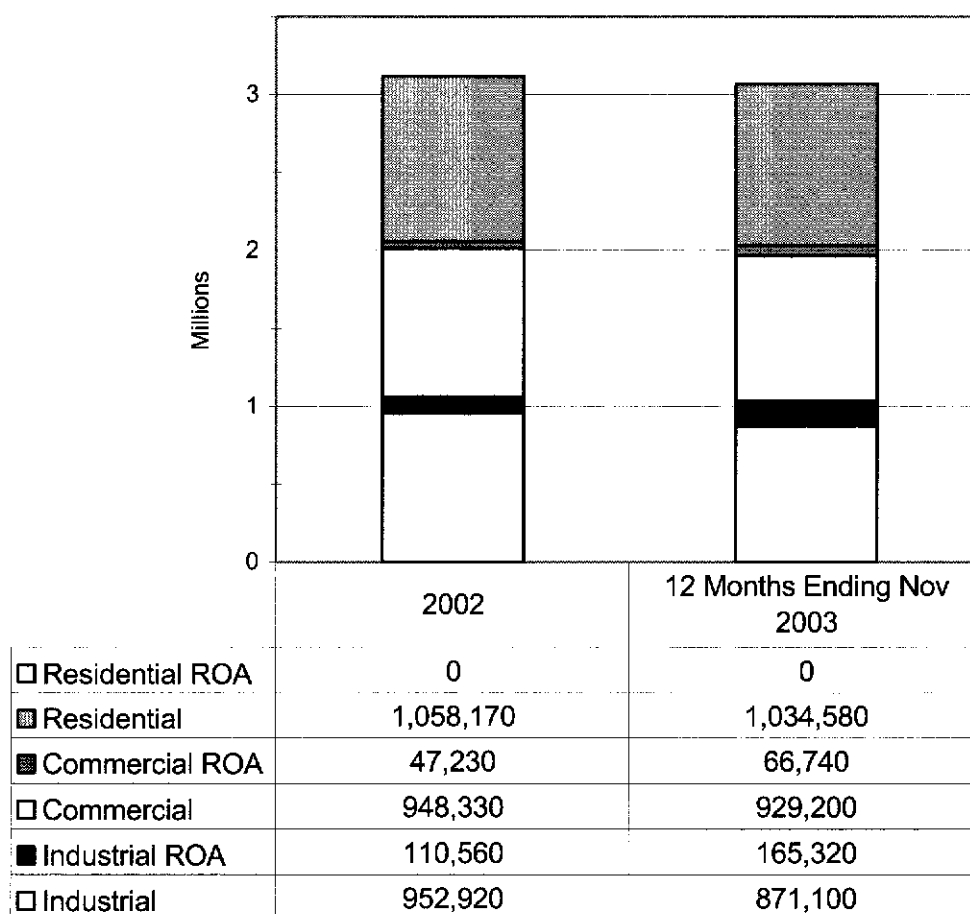


Figure 1: Consumers Energy Electric Customer Choice Program Activity  
(Cumulative Numbers of MW & Customers/Meters, Enrolled & In-Service, by Month)



Source: K. Carlson, Consumers Energy Co., Jan. 2004

Figure 2: Consumers Energy Average Sales Per Month  
by Customer Class, ROA & Full-Service (MWh)



#### **Detroit Edison Experimental Retail Access Program**

This Detroit Edison program is limited to 90 MW of load. The first customer started taking service on December 6, 1999. As of December 2003 there was a total load of 68.3 MW, representing one customer being served by one alternate supplier. Participating customers were initially selected by lottery. This program is scheduled to end on June 30, 2004.

#### **Detroit Edison Electric Choice Program**

Detroit Edison's ROA program was established by Commission orders and Act 141. Table 2 (p. 8) shows the numbers of customers and capacity in MW served by each AES in the Detroit Edison ROA program at the end of 2001, 2002 and 2003. As of year-end 2003, there was a total of 2,070 MW being served by non-

Detroit Edison generating sources.<sup>5</sup> The number of customers served in Detroit Edison's ROA program grew at an average annual rate of 138% in 2003, and the number of MW grew by 82%. Both of these rates are somewhat lower than the growth rates experienced in 2002.

Sales levels of customers opting for the ROA program are presently estimated at 20% of Detroit Edison commercial sales (measured in kWh) and 16% of Detroit Edison industrial sales. By customer class, approximately 37% of ROA sales are to industrial customers and 63% to commercial customers. Residential customer participation is still negligible.

On June 20, 2003, Detroit Edison filed a significant rate filing in Case No. U-13808, in which it requested: (1) a base electric rate increase, (2) reestablishment of its power supply cost recovery (PSCR) clause, and (3) recovery of net stranded costs. Included in Detroit Edison's base is testimony which claims that certain provisions of Michigan's electric customer choice program have negatively affected Detroit Edison earnings. A decision on this case is expected before the end of 2004.

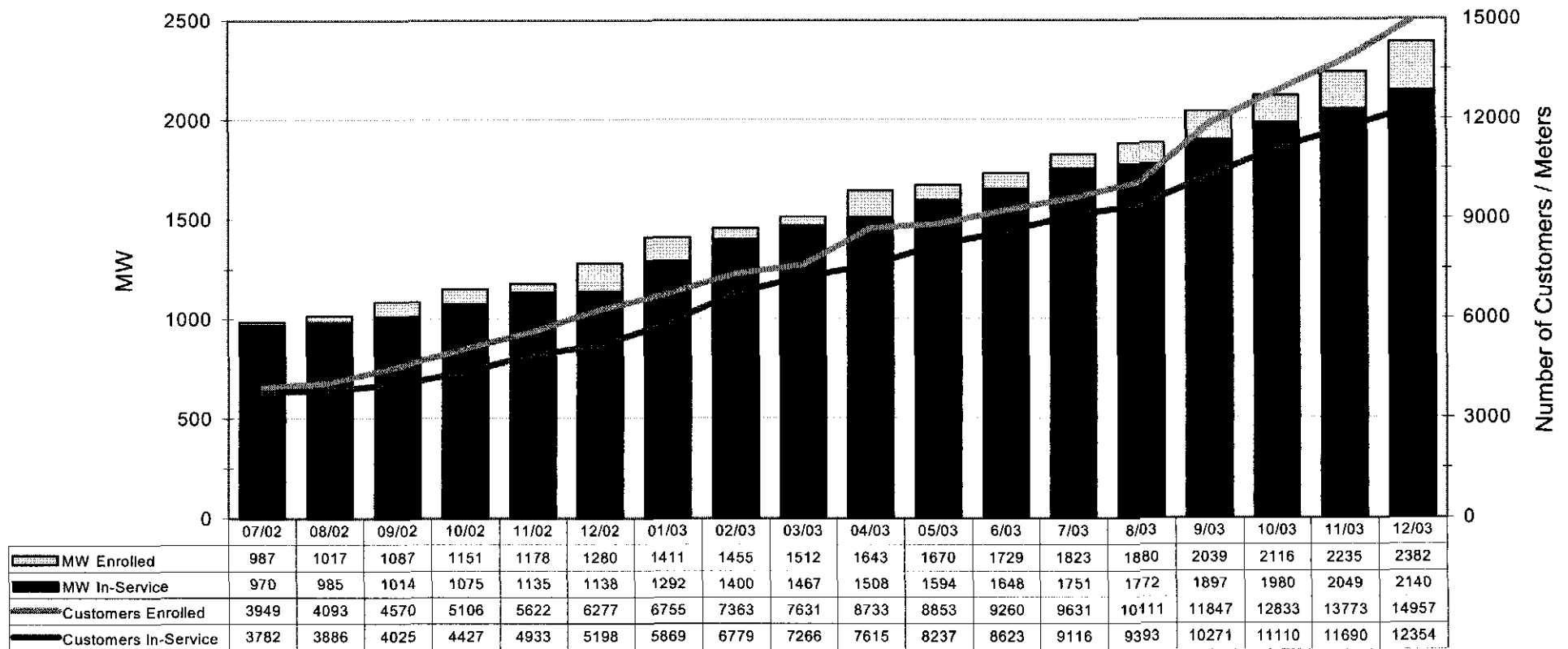
In summary, AES and customer participation in the three active programs continued to grow substantially in 2003. About 10% of the total sales in the Detroit Edison and Consumers Energy service areas is now being served through electric open access; up from about 7% last year. Figure 1 (p. 5) presents data for the most recent 18 months for Consumers Energy's Electric Customer Choice program, and Figure 2 (p. 8) presents the same data for Detroit Edison's Electric Choice program.<sup>6</sup>

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<sup>5</sup> In Case No. U-12980, the Commission determined that Ford Motor Company and Rouge Steel Company are obligated to pay applicable charges in the retail access service tariff of The Detroit Edison Company when they use power that is wheeled in from off-site generators, but not when they use self-service power generated at the cogeneration facility operated by Dearborn Industrial Generation, L.L.C. See March 12, 2003 order in Case No. U-12980, at <http://cis.state.mi.us/mpsc/orders/electric/2003/#Mar>.

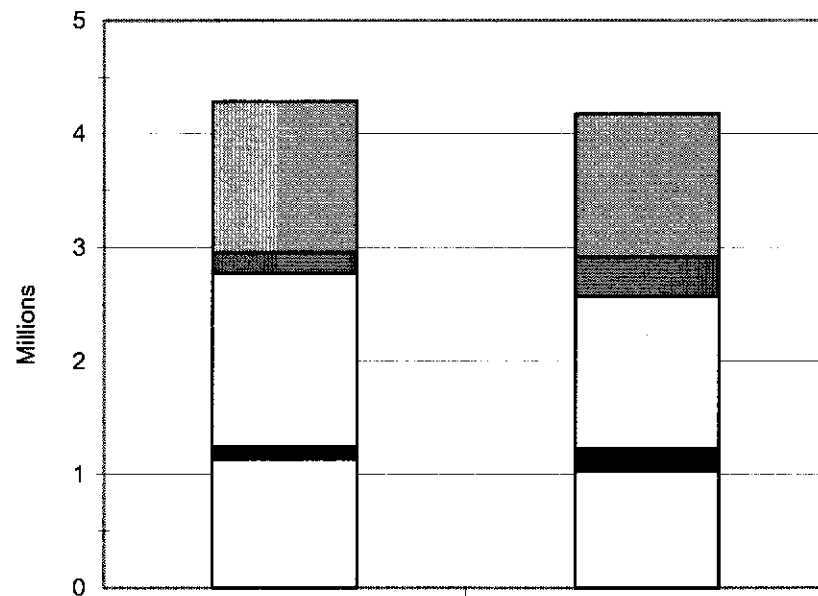
<sup>6</sup> Data on Detroit Edison's experimental retail access program is not included in either Table 2 or Figure 2.

Figure 3: Detroit Edison Electric Customer Choice Program Activity  
(Cumulative Numbers of MW & Customers/Meters, Enrolled & In-Service, by Month)



Source: J. Yakima, Detroit Edison Co., Jan. 2004

Figure 4: Detroit Edison Average Sales Per Month  
by Customer Class, ROA & Full-Service (MWh)



	2002	12 Months Ending Nov 2003
■ Residential ROA	71	84
■ Residential	1,329,820	1,259,350
■ Commercial ROA	183,530	344,430
□ Commercial	1,532,940	1,349,310
■ Industrial ROA	108,910	199,610
□ Industrial	1,132,460	1,024,750

Table 2 – AES Customers In Detroit Edison Service Territory, Year End

AES Name	Number of Customers			MW Served		
	2001	2002	2003	2001	2002	2003
CMS MS&T		499			94	
CMS MST Michigan, LLC	11	11	11	261	261	261
Constellation			1,325			303
Cook Inlet		9	9		86	86
Dillon			149			33
Dynegy			10			5
electricAmerica		953	3,420		35	181
Energy International		73	773		5	36
FirstEnergy Solutions		5	952		3	171
Metro Energy		2	2		13	13
Mirant			6			8
Nicor/EMC	246	1,012	66	18	169	4
Nordic Electric	1,159	1,312	1,718	77	107	162
Premier			327			53
Quest	620	1,287	1,477	141	325	422
Sempra		33	98		26	59
Strategic			2,000			245
Wolverine Power		2	2		13	13
WPS			4			15
Totals	2,026	5,198	12,349	497	1,138	2070

## **2. Electric Supply Infrastructure Serving Michigan**

### **2-A. Transmission System Expansion**

As required by Act 141, Section 10v (MCL 460.10v), regulated Michigan utilities serving more than 100,000 customers in Michigan were to submit a joint plan to increase the availability of transmission capacity into Michigan by 2000 MW by mid-2002. Detroit Edison, Consumers Energy, American Electric Power, and Great Lakes Energy Cooperative filed compliance plans and a hearing was commenced to resolve differences in the plans.

The Commission stated in an order issued in July 2002 that the projects identified in the joint plan are, for purposes of compliance with Act 141, reasonable and prudent. Further, the Commission maintained that when the utilities have completed all projects in the joint plan and submitted verification of that completion, the joint plan will be in compliance with Act 141. On December 6, 2002, Consumers Energy filed verification that its projects had been completed, and on May 27, 2003, and Detroit Edison filed its verification. Verification submittals by American Electric Power and Great Lakes Energy Cooperative have not been filed. The Commission's July 23, 2002 order states that cost recovery beyond that authorized by FERC will be in a manner consistent with 2000 PA 141.

### **2-B. Regional Transmission System Activities**

Under Act 141, Section 10w, (MCL 460.10w), all investor-owned electric utilities in Michigan are required to join a FERC-approved regional transmission organization (RTO), or divest transmission assets to an independent transmission owner. In Michigan, all transmission assets formerly owned by CMS Energy and DTE are now part of MISO. In response to the August 14 blackout, MISO developed a plan to implement reliability tools on an accelerated schedule, and pushed back the implementation of the energy market – including day-ahead, real-time and financial transmission rights (FTRs) market trading – until December 1, 2004. The MISO open access tariff is scheduled to be filed at the end of March.

FERC also worked in 2003 to stitch together the Nation's patchwork transmission grid with market design rules. The U.S. Congress continued its effort to pass omnibus energy legislation. The MPSC has had a role in influencing these policies.

American Electric Power (AEP) is the only major electric transmission operator in Michigan that is not part of a regional transmission organization. The merger pending last year between AEP and the Southwest Power Pool was mutually terminated. Although stating its intentions to join the PJM Interconnection (a transmission grid for mid-Atlantic states), AEP has not yet done so, leaving a fragmented and poorly coordinated regional transmission system in the upper Midwest.

Michigan has been working with other state regulatory agencies in the newly formed regional Organization of MISO States (OMS) on resource adequacy in the Midwest and longer term coordination of capacity needs.

MISO is developing working arrangements with each party bordering the MISO region and engaging them in seams discussions and systems integration to permit the orderly conduct of energy transfers and related economic settlements that must occur. These arrangements are a critical cornerstone for sound reliability practices across the Midwest. They are being done with PJM and AEP under an agreement referred to as the JOA (Joint Operating Agreement). This agreement was recently filed at the FERC for approval.

## 2-C. Generating Plant Additions

No significant new generating capacity was added in Michigan in 2003. In early 2003, the PG&E Generating plant under construction in Covert, Michigan, was sold to the group of banks who were the lenders for this project. It is now known as New Covert Generating Co., LLC (Covert Generating). Owners of the Covert Generating facility, PG&E National Energy Group, Inc. (PG&E/NEG), filed for Chapter 11 bankruptcy protection on July 8. PG&E/NEG had reached agreement in principle to transfer ownership of Covert Generating to the lenders who had provided funding for the facility construction, or their designees. This plant is estimated to be about 85% completed, but recent reports indicate uncertainty about when the plant will be completed. See <http://www.neg.pge.com/refforts.html>.

Mirant filed for Chapter 11 bankruptcy protection in July. This action includes Mirant-Zeeland, LLC and Mirant Michigan Investments, Inc. Operations at the Mirant-Zeeland power plant are expected to continue. See <http://restructuring.mirant.com/>.

Table 3: Sources of Michigan Electricity Production, Jan-Aug, 2003 (MWh)

Producer Category	Capacity <sup>1</sup>		Total Production, Jan-Aug 2003	
	MW	% of Total	MWh	% of Total
Electric Utilities	24,604	80.3%	63,369,744	86.6%
MCV Cogeneration	1,854	6.0%	3,818,038	5.2%
Non-Utility Suppliers <sup>2</sup>	4,186	13.7%	5,996,438	8.2%
Total	30,643	100%	73,184,219	100%

<sup>1</sup> Capacity equals total nameplate ratings of all generators in each producer category.

<sup>2</sup> Non-Utility Suppliers include: Arbor Hills; Cadillac Renewable Energy; Central Wayne Air Quality; Dearborn Industrial Generation; DTE East China, LLC; Genesee Power Station; Grayling Generating Station; Greater Detroit Resource Recovery; Hillman Power, LLC; International Paper; Jackson MI Facility; Kalamazoo River; Kent County Waste to Energy; Livingston Generating; Michigan Power, LP; Mirant Zeeland Generating; Renaissance Power, LLC; SD Warren Muskegon; Sumpter Energy Assoc.; TB Simon; TES Filer City; University of Michigan; Viking Energy of Lincoln; Viking Energy of McBain; White Pine Copper Refinery. EIA includes estimated amounts for facilities lacking current reports.

Source: Energy Information Administration, US Dept of Energy, EIA Form 906;  
<http://www.eia.doe.gov/cneaf/electricity/page/eia906nonu.html>.



Table 4: New Capacity Announced or Under Construction in Michigan

<b>FACILITY NAME</b>	<b>CAPACITY (MW)</b>	<b>STATUS</b>	<b>OPERATING DATE</b>
Augusta Park Energy, LLC / El Paso North America	340	Delayed	2006-2008
Calpine Corp. – CME NorthAmerican Merchant Energy LLC	900	Delayed	2006-2008
CME North American Merchant Energy LLC	1,100	Delayed	2006-2008
Dominion / CME North American Merchant Energy LLC	800	Delayed	2006-2008
Dominion / ERORA Group	600	Delayed	2006-2008
ERORA Group	605	Delayed	2006-2008
Hannahville Industrial Park	1,000	Delayed	2006-2008
Indeck Energy Services	1,100	Delayed	2006-2008
International Energy Partners	300	Delayed	2006-2008
Mirant Wyandotte, LLC	550	Delayed	2006-2008
Nordic	850	Delayed	2006-2008
Panda Tallmadge Power, LP / Alliant Energy Partners	1,100	Delayed	2006-2008
PG&E National Energy Group	1,170	85% completed	Uncertain
Sempra Energy Resources	500	Delayed	2006-2008
Tenaska, Inc., Bluewater Energy Center, LLC	880	Delayed	2006-2008
Total Under Construction	1,170		
Total Delayed	10,625		
Grand Total	11,795		

\* MPSC Staff maintains a Web page, Merchant Power Plants in Michigan, at <http://www.cis.state.mi.us/mpsc/electric/restruct/merchantplants.htm>. A Michigan Merchant Plants Map is available in PDF format from the State Utility Forecasting Group, at Purdue University. See <https://engineering.purdue.edu/IIES/SUFG/MAPS/index.html>.

## 2-D. Market Power Test

Section 10f of the Customer Choice and Electricity Reliability Act, MCL 460.10f, establishes a market power test that Consumers Energy and Detroit Edison must meet before the Commission may increase their rates for the sale of electricity. At its September 11, 2003 meeting, the Commission issued an order for Consumers Energy in Case No. U-13750, approving a settlement agreement which determines that Consumers Energy does meet the market power test. Detroit Edison filed its application for a determination of compliance with the market power test on May 29, 2003, in Case No. U-13797. The Commission is currently reviewing Detroit Edison's application.

### **3. Recommendations for Legislation**

The Commission has no recommendations for new or modified legislation at this time. The Commission is in the process of completing implementation of various aspects of Act 141. Many of these remaining issues, including provisions for stranded cost recovery and conditions governing customers returning to full service, are being contested in the current Detroit Edison rate case, Case No. U-13808. The Commission expects to issue an interim order in that proceeding in late February or March 2004 and a final order by the end of the summer.

National electric energy markets remain in a state of competitive flux. The Commission intends to continue to monitor and participate in the federal process. The Commission will apprise the Governor and Legislature of any developments that may require further action.

### **4. Commission Action Related to ROA**

#### **4-A. Commission Orders Related to Implementation of 2000 PA 141 and ROA Business Rules**

In 2003, the Commission issued 31 orders to further establish and implement the framework for Michigan's ROA programs and the provisions of 2000 PA 141.<sup>7</sup> These orders included:

- Nine orders on various provisions of 2000 PA 141, including interconnection standards, market power tests, the scheduling of open access for Michigan's electric cooperatives, and market power tests.
- Seven orders on customer choice education.
- Seven orders on Michigan's Low-Income and Energy Efficiency Fund.
- Four orders on reliability concerns and to insure adequate capacity to meet summer peak loads.
- Four orders regarding complaints about aspects of electric choice programs that could not be resolved without formal hearings.

#### **4-B. Commission Action to Protect Customers**

In 2003, the Commission issued orders:

- Accepting compliance filings and granting waivers, as ordered, regarding the Code of Conduct for electric utilities and their affiliates.<sup>8</sup> Six orders on code of conduct and affiliate transactions were issued.
- Establishing a legislative hearing process regarding proposed administrative rules to establish service quality and reliability standards for electric distribution systems subject to the Commission's

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<sup>7</sup> Commission orders are available on the Commission's web site at <http://cis.state.mi.us/mpsc/orders/electric>. Orders specifically about electric utility restructuring are also available through an annotated index at <http://cis.state.mi.us/mpsc/electric/restruct/orders.htm>. Documents and orders associated with many cases are available in the MPSC Electronic Case Filings system, at <http://efile.mpsc.cis.state.mi.us/efile/electric.html>.

<sup>8</sup> See 2000 PA 141, Section 10a(4) (MCL 460.10a(4)). See MPSC orders in Case No. U-12134, at <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12134>.

jurisdiction.<sup>9</sup> The Commission formally adopted rules governing service quality and reliability for electric distribution systems on January 29, 2004 in Case No. U-12270.<sup>10</sup> The new rules take effect in mid-February.

The standards adopted include those for service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, operational reliability, and public and worker safety. The rules establish what will now be considered to be unacceptable levels of performance. This includes deadlines for restoring service under normal and catastrophic conditions; answering customer calls; responding to complaints; reading meters; and new service installations. Using a “carrot and stick” approach, the new rules provide electric utilities with financial incentives and penalties. Utilities will be subject to financial penalties under certain conditions, including failing to restore power within set time limits after normal and catastrophic conditions, and in cases where customers experience repetitive interruptions of the same circuit. Customers will receive a \$25 credit or their monthly service charge – whichever is greater (see Press Release).

- Awarding grants from the Low-Income and Energy Efficiency Fund.<sup>11</sup> The purpose of the Fund is to provide shut-off and other protection for low-income customers and to promote energy efficiency by all customer classes. In October 2003 the Commission issued two orders addressing the needs of Michigan's low-income consumers for the upcoming heating season, awarding nearly \$20 million for low-income energy efficiency and low-income energy financial assistance. On October 14, the Commission awarded \$6,797,690 in low-income energy efficiency grants to eight organizations (see Press Release). On October 29, the Commission awarded \$13 million in low-income energy financial assistance grants to four organizations (see Press Release). Additionally, \$3 million was released from the Fund to the Michigan Community Action Agency Association to provide shut-off protection for Michigan's low-income consumers as authorized by Public Act 167 of 2003.

#### 4-C. Commission Action on Consumer Education and Information Disclosure

##### 4-C-1. Consumer Education

On April 17, 2003, the Commission issued an order on the customer choice education program.<sup>12</sup> The order suspended cost recovery of the 18-cent per month charge previously approved by the Commission and terminated activities by the CHOICE Advisory Council. The Commission directed each Michigan utility that had already begun collecting this charge to cease collecting the funds, file a report identifying how much money had been collected to date, and file an application proposing how to use those funds to promote green power, or provide refunds to customers. The seven utilities affected filed applications and received approvals in July through September 2003.

##### 4-C-2. Information Disclosure

In 2002, the Commission issued an order revising requirements for disclosures, explanations, or sales

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<sup>9</sup> See 2000 PA 141, Section 10p(5); MCL 460.10p(5). See MPSC Case No. U-12270 at <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12270>.

<sup>10</sup> The rules are available on the MPSC Web site: [http://www.cis.state.mi.us/mpsc/orders/electric/2003/u-12270rules\\_11-25-2003.pdf](http://www.cis.state.mi.us/mpsc/orders/electric/2003/u-12270rules_11-25-2003.pdf).

<sup>11</sup> This Fund was established by 2000 PA 141, Section 10d(6) (MCL 460.10d(6)). See MPSC orders in Case No. U-13129 at <http://cis.state.mi.us/mpsc/orders/electric>.

<sup>12</sup> See 2000 PA 141, Section 10r; MCL 460.10r. Orders and documents related to the customer education program are posted on the MPSC Web site at <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12133>.

information disseminated by entities selling electric services to the general public.<sup>13</sup> The requirements include disclosure of the environmental emissions and fuel mix used to deliver electric power, including renewable resources. Electric utilities and AESs are now providing the required information to customers with billing statements at least once each year and most providers display the information on their Web sites.

#### 4-C-3. Michigan Renewables Energy Program (MREP)

The Commission established the Michigan Renewables Energy Program (MREP).<sup>14</sup> The Commission directed MPSC Staff to establish an MREP web site and electronic mail list service, and initiate an MREP Collaborative to address issues referred in the Commission's order. Those issues include possible legislative initiatives and recommendations about "methods to encourage the development of renewable energy generation by residential and small commercial customers, including net metering."<sup>15</sup> MPSC Staff was also directed to prepare an annual report concerning the MREP, to include a status report on renewable energy sources and uses in Michigan and a summary of policy analysis and recommendations from the collaborative. The first annual report was delivered to the Commission in November 2003.

### 5. National Influences

#### 5-A. August 14 Blackout

On August 14, 2003, North America's largest ever power outage occurred reaching from southeastern Michigan through Ontario and northern Ohio, and east to New York City. The blackout left 50 million North Americans without power. A total of 2.3 million customers of Detroit Edison, Consumers Energy, and the Lansing Board of Water and Light were left without power. Increased pressure at the congressional level is now evident, as a lack of enforceable standards for the safe, reliable, and efficient operation of the transmission system was deemed to be a significant contributor to the blackout. Both Governor Granholm and MPSC Chair Lark presented congressional testimonies requesting an improved system whereby mandatory and enforceable rules would apply to all users of the Nation's electrical transmission system. Accordingly, Representative John Dingell (D, MI) sent a letter to House Speaker J. Dennis Hastert (R, IL) in December, urging the Speaker to bring House Bill (HR) 3004 to the floor. HR 3004 would establish a national Electric Reliability Organization (ERO) under the jurisdiction of the Federal Energy Regulatory Commission (FERC). The ERO would allocate system costs in an equitable manner among end-users (subject to FERC review), promulgate and enforce reliability standards, and impose penalties for non-compliance with approved standards. Representative Dingell describes the bill's provisions as a "common sense first step that Congress should take at the earliest opportunity."

The MPSC launched an investigation into the blackout on August 18, 2003. The MPSC investigation focused on the cause of the blackout and how Michigan's utilities and transmission operators reacted to both the outage and the events preceding it. The investigation also focused on the utilities' efforts to restore power following the blackout. Generally speaking, the MPSC found that all of the transmission line and power plant outages that occurred prior to the power surges that precipitated the blackout involved facilities in Ohio. The electric system in Michigan was in balance when the power surges began, and utility and transmission

<sup>13</sup> See 2000 PA 141, Section 10r(1); MCL 460.10r(1). For the disclosure requirements themselves, see: <http://efile.mpsc.cis.state.mi.us/efile/docs/12487/0032.pdf>. All associated orders and documents are posted on the MPSC Web site, at <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12487>.

<sup>14</sup> The MREP Web site is <http://www.michigan.gov/mrep>. See also 2000 PA 141, Section 10r(6); MCL 460.10r(6). See also Case No. U-12915, In the matter, on the Commission's own motion, to establish the Michigan Renewables Energy Program at <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12915>.

<sup>15</sup> May 16, 2002, order in Case No. U-12915, p. 16. See <http://efile.mpsc.cis.state.mi.us/cgi-bin/efile/viewcase.pl?casenum=12915>.

companies were not notified of the problems being experienced in Ohio. The investigation also revealed that Detroit Edison, Consumers Energy, and the Lansing Board of Water and Light performed appropriately with regard to blackout recovery.

#### 5-B. Federal Electric Reliability Improvement Act

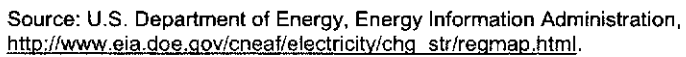
The MPSC has endorsed HR 3004 (sponsored by Rep. Dingell), the "Electric Reliability Improvement Act," that would improve the reliability of the Nation's electric transmission system. The bill would require electric utilities to comply with mandatory and enforceable standards for the coordination and operation of the transmission grid. Mandatory reliability standards will go a long way toward preventing blackouts similar to the massive event that hit Michigan, along with much of the northeastern U.S. and parts of Canada in August 2003.

#### 5-C. Utility Credit and Investment Ratings

Historically, credit ratings for the American electric utility industry have been investment-grade (the top four categories of the rating scale, from 'AAA' to 'BBB'). Today, only 2% of U.S. electric and gas companies are rated by Standard and Poor's in the 'AA' category, down from 7% two years ago. Similarly, 18% of companies now have ratings that fall below the investment grade cut-off of 'BBB-', down from 6% two years ago, and the average industry rating slipped from 'A-' to 'BBB+'. Consumers Energy current bond ratings are BBB-, and Detroit Edison's secured debt ratings are BBB+ by Standard and Poor's. Detroit Edison's bond ratings have remained unchanged since 1990.

A number of states have elected to continue the process of opening electricity markets to retail competition. Many independent marketers have sprung up around the country, thus creating a heightened focus on competitive factors and risks, including the credit strength of retail customers and energy suppliers, market risk of volatile energy prices and switching customers, as well as operational risk of internal controls. Accordingly, investor-owned electric utilities stabilized in the latter part of 2003, despite financial condition disparity. The stability resulted from a number of factors, including lower risk business plans, a more settled regulatory environment, continued benefits from cost reduction measures, and a low interest rate environment.

National Energy Group (NEG), a PG&E Corporation subsidiary, filed for reorganization under Chapter 11 Bankruptcy in July 2003. NEG agreed to turn over a total of six plants to two different lenders in 2003, one of which was the 1,170-MW Covert Generating Plant located about 40 miles west of Kalamazoo, Michigan. Although the final completion date is uncertain, the Covert Generating plant is about 85% complete after breaking ground in October 2001. Once complete, the Covert Generating Plant will operate as a merchant facility, selling its output primarily in the competitive wholesale markets. The economic efficiency of merchant plants that use natural gas to generate electricity dipped in 2003, due to the increase in natural gas prices.



### Michigan Licensed Alternative Electric Suppliers\*

Company Name, Address, Contact Information	Case Number	Authorization Date
AEP Ohio Commercial & Industrial Retail Company, L.L.C. d/b/a AEP Retail Energy 110 West Michigan Avenue - Suite 1000A; Lansing, MI 48933. Phone: 866.300.6410	U-13548	10/03/2002
CMS MS&T Michigan LLC One Jackson Square, Suite 1060; Jackson, MI 49201-2277 Phone: 517.768.2000 Fax: 517.787.4606	U-12567	8/17/2000
CMS Marketing, Services and Trading Co. One Jackson Square, Suite 1060; Jackson, MI 49201-2277 Phone: 517.768.2000 Fax: 517.787.4606	U-12563	8/17/2000
Constellation NewEnergy, Inc. 1000 Town Center, Suite 2350; Southfield, MI 48075 Phone: 877-232-1200 Toll free Fax: 248-936-9007 email: <a href="mailto:newenergy-michigan@constellation.com">newenergy-michigan@constellation.com</a> URL: <a href="http://www.newenergy.com">http://www.newenergy.com</a>	U-13660	12/20/2002
Cook Inlet Power, LP 200 E. Big Beaver, Suite 168; Troy, MI 48083, Contact: Hugh McCaffery V.P. Sales & Marketing Phone: 248.619.3995 Fax: 248.619.3997 email: <a href="mailto:hughm@cook-inlet.com">hughm@cook-inlet.com</a>	U-13265	1/22/2002
Dillon Energy Services, Inc. 21312 Mack Avenue; Grosse Pointe Woods, MI 48236 Phone: 313-885-4299 Fax: 313-885-4720 email: <a href="mailto:dillonenergy@comcast.net">dillonenergy@comcast.net</a>	U-13703	2/20/2003
Dorman Energy, L.L.C. 41000 Woodward Avenue, Suite 395E; Bloomfield Hills, MI 48304	U-13281	2/1/2002
DTE Energy Marketing, Inc. 101 N. Main Street, Suite 300; Ann Arbor, MI 48104, Phone: 734.887.2000	U-12564	8/17/2000
Dynegy Energy Services, Inc., C/O Michigan Power Limited Partnership 5795 West 6th Street; Ludington, MI 49431 Phone: 866.247.8135 email: <a href="mailto:EnergySolutions@Dynegy.com">EnergySolutions@Dynegy.com</a> URL: <a href="http://www.dynegy.com">http://www.dynegy.com</a>	U-13078	9/07/2001
ElectricAMERICA 15901 Red Hill Avenue, Suite 100; Tustin, CA 92780, Phone: 800.962.4655 Fax: 714.259.2575 URL: <a href="http://www.electricamerica.com">http://www.electricamerica.com</a>	U-13203	11/20/2001
Energy International Power Marketing Corporation d/b/a POWERONE CORPORATION 6850 Haggerty; Canton, MI 48187 Phone: 734.455.2500 email: <a href="mailto:rami.fawaz@poweronecorp.com">rami.fawaz@poweronecorp.com</a> URL: <a href="http://www.poweronecorp.com">http://www.poweronecorp.com</a>	U-13280	2/1/2002
Engage Energy America LLC (formerly Engage Energy US, L.P.) 39500 High Pointe Blvd., Suite 260; Novi, MI 483750 <a href="http://www.engageenergy.com/">http://www.engageenergy.com/</a>	U-12569	8/17/2000
Exelon Energy Company 2315 Enterprise Drive; Westchester, IL 60154. Phone: 877.473.0657 Toll free Fax: 877-212-2630 URL: <a href="http://www.exelonenergy.com">http://www.exelonenergy.com</a>	U-12662	10/6/2000
FirstEnergy Solutions 395 Ghent Road; Akron; Ohio 44333 Phone: 800.977.0500 URL: <a href="http://www.fes.com">http://www.fes.com</a>	U-13244	01/08/2002

- This list is current as of December 31, 2003. An up-to-date AES directory is kept on the MPSC Web site, at <http://cis.state.mi.us/mpsc/lic-enf/aesprog/aeslist.htm>. For information about AES licensing and a directory of pending applications, see <http://www.cis.state.mi.us/mpsc/electric/restruct/esp/>.

### Michigan Licensed Alternative Electric Suppliers (continued)\*

Company Name, Address, Contact Information	Case Number	Authorization Date
Metro Energy, LLC c/o Detroit Metropolitan Airport, Building No. 821; Detroit, MI 48242 Contact: Linda S. Ackerman Phone: 412.330.1016 Fax: 412.330.1018 email: <a href="mailto:lackerman@dqe.com">lackerman@dqe.com</a>	U-13311	2/25/2002
Mirant America Retail Energy Marketing, LP 1155 Perimeter Center West; Atlanta, GA 30338 URL: <a href="http://www.mirant.com">http://www.mirant.com</a>	U-13516	9/16/2002
Nicor Energy, L.L.C. 1001 Warrenville Road, Suite 550; Lisle, IL 60532-4306 Phone: 888.642.6797 Fax: 630.435.1584	U-12722	11/20/2000
Nordic Electric, LLC 2010 Hogback Road, Suite 4; Ann Arbor, MI 48105 Phone: 734.973.7700 URL: <a href="http://www.nordicelectric.com">http://www.nordicelectric.com</a>	U-12562	8/17/2000
Nordic Marketing, LLC 2010 Hogback Road, Suite 4; Ann Arbor, MI 48105 Phone: 734.973.7700 URL: <a href="http://www.nordicelectric.com">http://www.nordicelectric.com</a>	U-12568	8/17/2000
North American Energy, L.L.C. 4121 Okemos Road, Suite 17; Okemos, MI 48864 Contact: Robert C. Evans Phone: 517.347.4048 Fax: 517.347.4075 email: <a href="mailto:nanr@tctmet.net">nanr@tctmet.net</a>	U-13310	2/25/2002
Premier Energy Marketing, L.L.C. 900 Victors Way; Ann Arbor, MI 48108 Phone: 866-348-7605 Toll Free Fax: 734.929.1259 URL: <a href="http://www.premiereenergy.net">http://www.premiereenergy.net</a> Contacts: Bruce Schlansker, 734.929.6611, <a href="mailto:bschlansker@premiereenergy.net">bschlansker@premiereenergy.net</a> George Deljevic, 734.929.6612, <a href="mailto:gdeljevic@premiereenergy.net">gdeljevic@premiereenergy.net</a>	U-13620	11/7/2002
Quest Energy, LLC 173 Parkland Plaza, Suite B; Ann Arbor, MI 48103 Phone: 734.997.0500 Fax: 734-997-0791 URL: <a href="http://www.questenergy.biz">www.questenergy.biz</a>	U-12566	8/17/2000
Sempra Energy Solutions 39555 Orchard Hill Place, Suite 600; Novi, MI 48375 Phone: 877.2SEMPRA Toll Free Fax: 248.374.5068 email: <a href="mailto:email@semprasolutions.com">email@semprasolutions.com</a> URL: <a href="http://www.semprasolutions.com">http://www.semprasolutions.com</a>	U-13361	4/16/2002
Strategic Energy Two Gateway Center, Ninth Floor, Pittsburgh, PA 15222 Phone: 800-830-5923 Toll Free email: <a href="mailto:GreatLakesSales@sel.com">GreatLakesSales@sel.com</a> URL: <a href="http://www.sel.com">http://www.sel.com</a>	U-13609	11/7/2002
Wolverine Power Marketing Cooperative, Inc. 10125 W. Watergate Road, P. O. Box 100, Cadillac, MI 49601 Phone: 231.775.7500, 877.907.WPMC Toll-free, Fax: 231.775.0172 URL: <a href="http://www.wpsci.com">http://www.wpsci.com</a>	U-12723	11/20/2000
WPS Energy Services, Inc. 173 Parkland Plaza, Suite B, Ann Arbor, MI 48103 Contact: Mark Stiers. Phone: 734.997.0500 Ext. 231 Fax: 734.997.0791 URL: <a href="http://www.wpsenergy.com">http://www.wpsenergy.com</a>	U-13245	01/08/2002

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